

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF CONNECTICUT**

CAROLINE O'BAR,	:	
Plaintiff,	:	
	:	
-vs-	:	Civ. No. 3:01cv867 (PCD)
	:	
BOROUGH OF NAUGATUCK, <i>et al.</i> ,	:	
Defendants.	:	

**RULINGS ON MOTION FOR AN ORDER COMPELLING  
DISCOVERY AND MOTION FOR A PROTECTIVE ORDER**

Presently before this court are defendants' motion for an order compelling discovery and plaintiff's motion for a protective order. For the reasons set forth herein, the motion to compel is granted in part and the motion for a protective order is granted in part.

**I. BACKGROUND**

Plaintiff alleges that defendants discriminated against her on the basis of gender and that she was subjected to retaliation for reporting discrimination within the Naugatuck Police Department, claiming violations of the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 *et seq.*, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.* ("Title VII") and CONN. GEN. STAT. § 46a-60.

**II. MOTION FOR AN ORDER COMPELLING DISCOVERY**

Defendants move for an order compelling plaintiff to sign a release permitting them access to her personnel file with her subsequent and present employer, the Middlebury Police Department.

**A. Standard**

"[T]he scope of discovery under FED. R. CIV. P. 26(b) is very broad, 'encompass[ing] any

matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case.” *Maresco v. Evans Chemetics, Div. of W.R. Grace & Co.*, 964 F.2d 106, 114 (2d Cir. 1992) (quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351, 98 S. Ct. 2380, 2389, 57 L. Ed. 2d 253 (1978)). “Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party . . . . Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.” FED. R. CIV. P. 26(b)(1). The scope of discovery, however, is not without bounds, and limitations are imposed where the discovery is “unreasonably cumulative or duplicative,” overly “burdensome . . . [or] expensive” or “the burden or expense of the proposed discovery outweighs its likely benefit.” FED. R. CIV. P. 26(b)(2). An order compelling discovery is rendered after consideration of the arguments of the parties, and such order may be tailored to the circumstances of the case. *Gile v. United Airlines, Inc.*, 95 F.3d 492, 496 (7th Cir. 1996).

## **B. Analysis**

Defendants argue that plaintiff’s personnel file from the Middlebury Police Department employee file is relevant to plaintiff’s claim of damages attributable to a pay differential between her former and present employment and pension benefits lost as a result of her constructive discharge. Plaintiff responds that defendants have no need to access her personnel file as she has provided them with an income summary from her present employer and that her present employment is not germane to a claim of pension benefits lost through her constructive discharge by defendant Borough of Naugatuck.

Plaintiff has placed her employment with the Middlebury Police Department at issue by stating in her response to defendants’ discovery request that she intends to claim the income differential

between her salary with defendant Borough of Naugatuck and her salary with the Middlebury Police Department. Plaintiff's response also includes a damages claim for lost pension rights by defendants' alleged termination. Defendants are therefore entitled to discovery of relevant information within her personnel file pertaining to these claims.<sup>1</sup>

Although plaintiff is not entitled to withhold relevant material sought by defendants without a sufficient reason for doing so, *see* FED. R. CIV. P. 26(b)(2), defendants have not established that plaintiff's entire personnel file is relevant and thus discoverable. Mindful of the confidential information contained within a personnel file that may be of no relevance to the present claims or defenses, *see Sidari v. Orleans County*, 180 F.R.D. 226, 232 (W.D.N.Y. 1997), plaintiff need not authorize wholesale disclosure of the contents of her personnel file. She will therefore produce copies of those documents within her personnel file for the Middlebury Police Department pertaining to pay, allowances and pension benefits. These documents will be served on defendants within seven days of the issuance of this order.

### III. MOTION FOR A PROTECTIVE ORDER

Plaintiff moves for a protective order precluding disclosure of her personnel file from the Middlebury Police Department. Defendants respond that the material sought is relevant to their defense

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<sup>1</sup> Plaintiff's argument that the information provided to defendants obviates the need to review her personnel file from the Middlebury Police Department is without merit. Plaintiff may not limit a response to a discovery request to material she deems sufficient. Plaintiff must respond to the discovery request as presented, *see* Fed. R. Civ. P. 37(a)(3), or provide an appropriate objection as to why the discovery sought is inappropriate. Proper objections are that the discovery sought is irrelevant, "unreasonably cumulative or duplicative," overly "burdensome . . . [or] expensive" or "the burden or expense of the proposed discovery outweighs its likely benefit." FED. R. CIV. P. 26(b)(2). To the extent that plaintiff now argues that the material sought is entirely irrelevant, her objection is overruled.

and not protected for privacy reasons.<sup>2</sup>

### **A. Standard**

“Where . . . the [discovery is] relevant, the burden is upon the party seeking . . . a protective order to show good cause.” *Penthouse Int’l, Ltd. v. Playboy Enters.*, 663 F.2d 371, 391 (2d Cir. 1981) (citation omitted); *see also* FED. R. CIV. P. 26(c); *Dove v. Atl. Capital Corp.*, 963 F.2d 15, 19 (2d Cir. 1992) (burden is on moving party to show good cause). FED. R. CIV. P. 26(c), however, “is not a blanket authorization for the court to prohibit disclosure of information whenever it deems it advisable to do so, but is rather a grant of power to impose conditions on discovery in order to prevent injury, harassment, or abuse of the court’s processes.” *Bridge C.A.T. Scan Assocs. v. Technicare Corp.*, 710 F.2d 940, 944-45 (2d Cir. 1983).

### **B. Analysis**

Plaintiff argues that a protective order should issue because the material contained within her personnel file is irrelevant. As discussed in *supra* Part II.B, defendants have not established that plaintiff’s entire personnel file is relevant, thus a protective order shall issue as to those portions not included in the above order compelling discovery. As for the material ordered produced in *supra* Part II.B, plaintiff has failed to carry her burden in establishing that the material is sought for purposes of injury, harassment or abuse of the court’s processes. *See id.*

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<sup>2</sup> Plaintiff argues that public policy recognizing the confidentiality of her personnel file precludes disclosure of her file with the Middlebury Police Department. Such confidentiality concerns may yield to an opposing party’s need to access confidential documents in order to defend against a claim asserted by the subject of the confidential record. *See CEH, Inc. v. FV “Seafarer”*, 153 F.R.D. 491, 499 (D.R.I. 1994).

#### IV. CONCLUSION

Based on the foregoing, defendants' motion to compel discovery (Doc. 71) is **granted in part** and plaintiff's motions for a protective order (Doc. 76) is **granted in part**.

SO ORDERED.

Dated at New Haven, Connecticut, April \_\_, 2002.

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Peter C. Dorsey  
United States District Judge